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STATE OF WASHINGTON

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BY RONALD B. CARPENTER

No. 84894-7

SUPREME COURT
OF THE STATE OF WASHINGTON

No. 62843-7-I

COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION I

SCOTT E. STAFNE,

Appellant,

vs.

SNOHOMISH COUNTY AND
SNOHOMISH COUNTY PLANNING DEPARTMENT,

Respondents.

ANSWER TO BRIEF OF *AMICUS CURIAE* WASHINGTON STATE
ASSOCIATION OF MUNICIPAL ATTORNEYS IN SUPPORT OF
SNOHOMISH COUNTY'S PETITION FOR REVIEW

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I. INTRODUCTION

Snohomish County (the “County”) files this Answer in support of *amicus curiae* the Washington State Association of Municipal Attorneys’ (“WSAMA”) brief in support of the County’s Petition for Review.

II. STATEMENT OF THE CASE

The County refers the Court to the statement of the case provided in the County’s Petition for Review (pages 2-4), as well as the statement of the case set forth in the County’s Response Brief to the Court of Appeals (pages 2-11).

III. INTEREST OF *AMICUS CURIAE*

The County agrees with WSAMA that WSAMA has no direct interest in the outcome of this lawsuit. The County also agrees with WSAMA that WSAMA and its members have an interest in the impact the outcome of this lawsuit will have on the administration of land use appeals in comprehensive planning matters.¹

IV. ARGUMENT

The County agrees with the arguments presented in WSAMA’s brief. In particular, the County agrees that the Court of Appeals’ decision in this case meets the criterion for review set forth in RAP 13.4(b)(2), as it directly conflicts with a decision from another Division of the Court of

¹ Brief of *Amicus Curiae* Washington State Association of Municipal Attorneys, p. 1.

Appeals, namely, the Division III decision of Coffee v. City of Walla Walla, 145 Wn. App. 435, 187 P.3d 272 (2008).²

The County agrees with WSAMA that the docket proposal at issue in this case was not a “land use decision” reviewable under the Land Use Petition Act, chapter 36.70C RCW (“LUPA”). Instead, Appellant/Petitioner Scott E. Stafne’s docket proposal was an “application for legislative approval” that is exempted from LUPA’s scope by RCW 36.70C.020(2)(a).³ The Court of Appeals’ holding to the contrary in this case conflicts with existing law and should be reviewed by this Court.

V. CONCLUSION

The County joins with WSAMA in respectfully requesting this Court to grant the County’s Petition for Review under RAP 13.4(b)(2).

Respectfully submitted this 1st day of November, 2010.

MARK K. ROE
Snohomish County Prosecuting Attorney

By: /s/
John R. Moffat, WSBA #05887
Bree Urban, WSBA #33194
Deputy Prosecuting Attorneys
Attorneys for Snohomish County

² Brief of *Amicus Curiae* Washington State Association of Municipal Attorneys, p. 1.

³ Brief of *Amicus Curiae* Washington State Association of Municipal Attorneys, pp. 5-8.

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NO. 84894-7

(COURT OF APPEALS
NO. 62843-7-I)

CERTIFICATE OF SERVICE

I, Regina McManus, certify that I am an employee of the Civil Division of the Snohomish County Prosecuting Attorney, and that on this 1st day of November, I caused to be served a true and correct copy of the Answer to *Amicus Curiae* Washington Association of Prosecuting Attorneys' Memorandum in Support of Snohomish County's Petition for Review upon the party listed below in the manner indicated:

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I declare under penalty of perjury under the laws of the State of
Washington that the foregoing statements are true and correct.

DATED at Everett, Washington, this 1st day of November, 2010

/s/
Regina McManus

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